

KEEGAN, WERLIN & PABIAN, LLP

ATTORNEYS AT LAW  
265 FRANKLIN STREET  
BOSTON, MASSACHUSETTS 02110-3113

(617) 951-1400

TELECOPIERS:  
(617) 951-1354  
(617) 951-0586

March 29, 2004

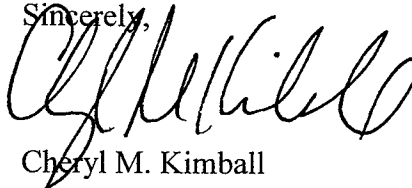
Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

RE: Investigation Regarding the Assignment of Interstate Pipeline Capacity, D.T.E.  
04-1

Dear Ms. Cottrell:

Please find attached an original and nine (9) copies of the Reply Comments of NSTAR Gas Company in the above-referenced proceeding. If you have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,



Cheryl M. Kimball

Enclosure

cc: Joseph Rogers, Assistant Attorney General  
Robert Sydney, General Counsel, DOER  
James Daly, NSTAR Gas Company  
Tam Ly, NSTAR Gas Company

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

---

Investigation Regarding the  
Assignment of Interstate Pipeline  
Capacity Pursuant to D.T.E. 98-32-B

---

D.T.E. 04-1

**REPLY COMMENTS OF NSTAR GAS COMPANY**

**I. OVERVIEW**

On January 12, 2004, the Department of Telecommunications and Energy (the "Department") issued an order (the "Order") in the above-referenced docket opening an investigation into the assignment of interstate pipeline capacity. In the Order, the Department stated that the objective of the proceeding is to determine whether the upstream capacity market is sufficiently competitive to warrant a change to the mandatory capacity-assignment approach approved in D.T.E. 98-32-B. Order at 1. Initial comments in this proceeding were filed with the Department on March 1, 2004.<sup>1</sup> In these comments, NSTAR Gas Company ("NSTAR" or the "Company") responds to issues raised therein by Energy East Solutions, Amerada Hess and the Attorney General.

Specifically, the Company will respond to two categories of issues raised in the initial comments, which are: (1) whether the upstream capacity market is "workably competitive" and the implications of that determination on LDC contracting obligations;

---

<sup>1</sup> Initial comments in this proceeding were filed by the Amerada Hess Corp. ("Amerada Hess"); the Commonwealth of Massachusetts Attorney General (the "Attorney General"); Bay State Gas Company, The Berkshire Gas Company, Blackstone Gas Company, Energy East Solutions, Inc. ("Energy East Solutions"), KeySpan Energy Delivery New England, New England Gas Company, NSTAR Gas Company, Select Energy, and Unitil/Fitchburg Gas and Electric Light Company.

and (2) whether proposed changes to the existing capacity assignment program and/or the LDCs' transportation terms and conditions are needed or warranted. As discussed below, no commenters claimed that the upstream capacity market is "workably competitive," nor was any information offered tending to support that conclusion. However, without a finding that the market is workably competitive, the planning and procurement of capacity resources cannot be turned over to the market without jeopardizing the reliability of gas service to customers. Therefore, a change to the LDC contracting process that would progressively eliminate the LDCs' ability to hold sufficient capacity resources to meet the needs of firm customers is precluded.

In addition, the Department should proceed cautiously in considering any changes to the mandatory "slice-of-the-system" capacity assignment program or the Model Terms and Conditions. The comments from Energy East Solutions and Amerada Hess in this regard rely on outdated theoretical examples that do not reflect the fact the Company has made significant progress since 1997 in streamlining its resource portfolio and eliminating the smaller upstream contracts referenced by the marketers in this proceeding. These comments also gloss over the fact that the alternative approaches adopted in other states are tailored to meet the particular operational and regulatory requirements of those systems, and may not be directly transferable to the LDC systems in Massachusetts, given the Department's twin policy objectives of (1) ensuring reliability; and (2) guarding against cost-shifting between transportation and sales customers. Lastly, many of the suggested changes to the LDCs' transportation terms and conditions can be accomplished without changes to the Model Terms and Conditions.

Nevertheless, NSTAR Gas recognizes that it is the Department's longstanding

objective to establish the framework for a competitive retail market that would be accessible by all types of retail customers. Therefore, NSTAR Gas is willing to work with the Department and other participants in this proceeding to identify and evaluate changes that would streamline the capacity-assignment process and decrease administrative burdens, as long as those changes maintain the reliability of service and avoid inappropriate cost shifting from transportation to sales customers.

**I. The LDCs Obligation to Plan for and Procure Capacity Cannot Be Modified Unless and Until the Upstream Capacity Market Is Sufficiently Competitive to Ensure Deliverability to Customers At All Times.**

In D.T.E. 98-32-B, the Department reaffirmed that local distribution companies (“LDCs”) serving customers in Massachusetts have an obligation to provide safe and reliable gas service to customers, which necessarily encompasses the obligation to plan for and procure sufficient upstream capacity to ensure deliverability of gas under a range of supply contingencies. D.T.E. 98-32-B, at 6-7. As recounted in the initial comments, the Department has determined that, before this obligation may be eliminated, a workably competitive upstream capacity market must exist. *Id.* This finding is premised upon the regulatory principle that, where a workably competitive market exists, market-based prices rather than rate regulation, will more efficiently allocate resources, *i.e.*, market forces will ensure that there is adequate capacity available at the lowest possible price. Thus, if the market is not workably competitive, the availability of reliable and reasonably priced capacity resources cannot be assured without continued regulatory oversight. *Id.* at 7-8.

Significantly, none of the initial comments suggested that the upstream capacity market has become workably competitive since the Department’s issuance of its decision

in D.T.E. 98-32-B in February 1999. However, Amerada Hess claims that the level of competitiveness in the upstream capacity market has “improved” since the Department’s order in D.T.E. 98-32-B and that, for this reason, it is time for the Department to consider new policies to begin to transition capacity into the marketplace (see, e.g., Amerada Hess Initial Comments at 11, 17). The Company disagrees with this conclusion.

The proposals offered by Amerada Hess to commence the “transition” of capacity would have the effect of shrinking the amount of capacity held by LDCs to meet the load requirements of firm customers, without any determination that market circumstances warrant a change to the LDCs’ planning obligations or that the market would operate efficiently to ensure the continued availability of gas supplies as a substitute for LDC planning. Moreover, the “improvements” cited by Amerada Hess do not stand up to scrutiny and, even if those improvements have occurred, they are not sufficient to support the transition of the planning and procurement function to the market at this time. Accordingly, the decontracting proposals offered by Amerada Hess should be rejected by the Department.

A. The Market Changes Cited by Amerada Hess Do Not Demonstrate An Improvement in the Competitive of the Upstream Capacity Market.

Amerada Hess claims that changes in the New England marketplace since 1999 represent an improvement warranting a change in the LDCs’ planning obligation. These changes are: (1) the expansion of supplies into the New England area since the issuance of the Department’s order in 1999 (id. at 10-11); (2) the procurement of capacity in the New England area by market participants other than LDCs and power generators (id. at 12-14); and (3) the availability of secondary market capacity and citygate-delivered gas

on a spot basis at Massachusetts citygates “for a price” in colder periods (id. at 14-15). Although the Company does not contest that limited changes have occurred since 1999, each of these claims should be viewed critically in assessing whether changes to the existing planning and procurement obligation are appropriate.

First, although it is accurate that the Maritimes and Northeast Pipeline and LNG shipments into Distrigas have increased the amount of supply available to the area since 1999, it is widely recognized that these gains have largely been offset by the growth in demand for natural gas. As a result, no conclusions may be drawn from the fact that these resources have been added without a critical assessment as to whether the increased supplies have exceeded the increased demand for natural gas resulting from load growth and the addition of new gas-fired generation since 1999.<sup>2</sup> It should also be noted that, although the growth in LNG imports is significant, these imports are not reserved exclusively to serve core customer requirements in New England. Moreover, since 1998, approximately 10,700 megawatts of new gas-fired generation has been added to the New England grid, placing substantial demands on the natural gas supplies available to the area. See, Staff Report of the Federal Energy Regulatory Commission at 12 (December 2003) (provided in NSTAR Gas Initial Comments, Appendix A).

As noted in the FERC Staff Report, “natural gas infrastructure expansion has kept up with demand, but with little margin for error.” Id. at 3. The FERC Staff Report further notes that the New England monthly pipeline load factor exceeds 90 percent three

---

2 Amerada Hess notes that the MNE Pipeline brings an additional 530,000 MMBtu per day into the area (Amerada Hess at 10). However, this resource has yet to reach its full potential because of supply constraints at the origin of the pipeline. It is the Company’s understanding that, to date, the MNE Pipeline has generally made available up to 150,000 MMBtus per day in incremental supplies.

months of the year, which indicates that the pipelines are running full and have little excess capacity. Id. Thus, it is generally acknowledged within the industry that, although the existing natural gas pipeline infrastructure in New England is adequate to meet current requirements, additional facilities will be needed to meet the region's demands in the period 2005 through 2010. Northeast Natural Gas Market Update, prepared by the Northeast Gas Association, February 2004, at 10-11. Accordingly, the mere assertion that additional supplies are available as a result of the addition of the MNE Pipeline and increased LNG imports is insufficient to demonstrate that there has been any improvement in the liquidity of the market in New England or in the upstream capacity market.

Second, Amerada Hess claims that the total capacity on the Tennessee Gas Pipeline ("Tennessee") with New England citygates is 1,887,229 Dth , and on the Algonquin Gas Transmission Company ("Algonquin"), is 2,337,374 Dth (Amerada Hess Comments at 13). However, according to the FERC Staff Report, Algonquin import capacity is 1.060 MMcf/day and Tennessee's existing import capacity is 1,180 MMcf/day. See, FERC Staff Report at 4-5 (December 2003). Therefore, it appears that Amerada Hess has significantly overstated the amount of capacity available on each pipeline system.

Based on this chart (Table A), Amerada Hess claims that "non-LDC and non-power generators hold 24 percent of the capacity on Tennessee and 10 percent of the capacity on Algonquin" (id. at 13). Amerada Hess then concludes that "the existence of this level of non-LDC capacity holders directly address one of the Department's metrics for determining if there is wholesale competition," in that it demonstrates that both

Tennessee and Algonquin are “well on their way toward transitioning pipeline capacity to other market participants” (id.).

As an initial point, Amerada Hess has offered no analysis of whether the claimed percentages of “non-LDC and non-generator” actually represent an increase, or even any change since 1999. In addition, there are a number of flaws in the information presented in Table A. First, several of the capacity holders listed on the chart are, in fact, serving power generation loads, such as Northeast Energy Associates, which is using 62,000 Dth on the Algonquin pipeline to serve their Bellingham generation plant. Other “non-generating” pipeline capacity listed on the chart is used to serve the ANP Bellingham plant (TXU) and Dartmouth Power (Brymore). The capacity listed as “Phelps Dodge Copper Products” is lateral capacity, which is used only to serve a specific end-user with processing-load requirements. The Company believes that much of the remaining capacity is associated with designated end uses, and therefore, is not capacity that is available to serve retail customers on a firm basis in the event that the LDCs are no longer planning for load growth.

There are several other discrepancies and misrepresentations in this list that would need to be accounted for before there can be a meaningful analysis of whether there is an increased level of capacity held by non-LDC and non-generator market participants. For example, Amerada Hess does not distinguish between firm and non-firm capacity holders on the list, and most of the non-LDC capacity is held for periods of only one to three years. Moreover, of all the companies listed in Table A, only three are approved retailers in Massachusetts, which means that capacity-holders on the list are not holding capacity to meet the needs of Massachusetts retail gas customers.

The point of the Department's condition precedent requiring an increase in the number of alternative contract holders with firm rights to the interstate pipeline capacity is that, in the event of the elimination of the LDCs's planning and procurement obligation, there would need to be adequate capacity available from a number of sellers willing and able to make available the resources necessary to ensure the delivery of gas supply to Massachusetts customers in the peak periods. The information provided by Amerada Hess does not demonstrate that there has been any improvement in the number of capacity holders that would be willing and able to make capacity available to meet the needs of Massachusetts customers in the event that the planning function is turned over to the market.

Third, Amerada Hess claims that secondary market capacity and citygate-delivered gas have been available on a spot basis at Massachusetts citygates "for a price" in colder periods (Amerada Hess at 14-15). The Department has already determined that the deliverability of gas supplies to gas customers cannot be reliably maintained in the peak periods by relying on secondary market capacity. D.T.E. 98-32-B at 27. Moreover, Amerada Hess asks the Department to modify the imbalance penalty formula of five times the daily citygate index for New England because "the level of commodity prices has more than doubled and increases geometrically during operational flow order periods, ("OFO")" (Amerada Hess at 8).

However, citygate commodity prices increase during OFO periods because the transportation capacity used to carry those supplies to the citygate is constrained and the delivered price adjusts to reflect those constraints. If the LDCs did not hold sufficient capacity to meet citygate deliverability requirements during these constrained periods,

there is currently no assurance that there would be enough capacity available to meet the needs of customers – at any price. The fact that secondary capacity may occasionally be available “at a price” during constrained periods provides no assurance that the market is ready to provide sufficient firm deliverability at a reasonable cost during peak periods for Massachusetts customers.

In D.T.E. 98-32-B, the Department clearly established the preconditions that would have to be satisfied in order for there to be a basis and a rationale to eliminate the LDCs obligation to plan for and procure sufficient capacity to meet the load requirements of firm customers. The Department made the determination that a workably competitive market must exist, and that these preconditions must be satisfied because there is no room for error on this matter, i.e., if the Company is not holding capacity on behalf of customers, there is no guarantee that the Company would be able to reconstitute the portfolio to serve customers when and if the market fails to make resources available. The factors cited by Amerada Hess as indicators of improvements in the level of competition in the upstream capacity market lack analytical integrity and fall far short of providing a sufficient basis for the Department to commence a broad-based and irrevocable initiative to remove LDCs from the planning function. Accordingly, the Department should reject the decontracting proposals espoused by Amerada Hess.

B. Even if Valid, the Market Changes Cited by Amerada Hess Do Not Provide a Basis for the Modification of the LDC Planning Obligation.

In the initial comments, Amerada Hess claims that there are two opportunities to begin “transitioning” capacity to the market: (1) when LDC capacity contracts expire; and (2) when an LDC is seeking to purchase additional capacity to accommodate growth

on the system (Amerada Hess Comments at 19). With respect to expiring capacity contracts, Amerada Hess suggests that, when a contract comes up for renewal, marketers operating on an LDC's system could opt out of capacity assignments associated with that contract and the LDC would ratchet back on the amount of capacity renewed on the contract by an equal amount (id. at 19-21). Similarly, Amerada Hess suggests that marketers be allowed to opt out of assigned capacity when an LDC identifies the need to purchase incremental capacity and the LDC would use the capacity not assigned to marketers to satisfy the incremental need of its sales customers (id. at 21-22).

Neither of these proposals should be adopted by the Department because these proposals would cutoff the LDCs' ability to procure sufficient capacity to meet the requirements of firm sales customers without any indication that the market is sufficiently competitive to ensure the continued availability of those supplies. Amerada Hess claims that marketers would be required to certify that they hold the capacity to replace or substitute for the LDC capacity. However, there would be no guarantee that marketers would retain that capacity over the long-term; no guarantee that customers would stay with a given marketer, and no way for the Department to ensure that the marketer would continue to serve customers over the long run. Without the assurance that there will be capacity generally available in the marketplace to meet customer load requirements regardless of the identity of the marketer providing service to customers, customers are at risk for a decline in service reliability.

Moreover, there is no way for the LDC to act as supplier of last resort where its ability to contract for capacity is cutoff, nor does Amerada Hess explain its intentions in this regard. Over time, the LDC will have only the amount of capacity necessary to meet

the firm requirements of its own sales customers and transportation customers will be left to their own devices, which means that there will be a significant decline in the reliability for Massachusetts gas customers, unless there are sufficient resources available in the marketplace to meet firm load requirements.

The Department has already established that this transition cannot be made until such time that the market is workably competitive. The “improvements” in the level of competition in the upstream capacity market cited by Amerada Hess, even if valid, are not sufficient to ensure the continued reliability of service to customers with implementation of the proposals offered by Amerada Hess. Amerada Hess is simply seeking to leapfrog the threshold determination identified by the Department, which is targeted at maintaining service reliability for customers. Therefore, both of these proposals should be rejected by the Department.

C. The Structural Framework Established in the Terms and Conditions Sufficiently Protects Customers Who Desire to Take Sales Service from the LDC.

In the initial comments, the Attorney General claims that LDCs may not have sufficient resources to serve growing customer load within their service territory and may not have considered the return of “all competitively served customers in developing capacity and supply plans” (Attorney General Comments at 3). This is not the case for NSTAR Gas. Under the terms and conditions, customers migrating to the competitive market after February 1, 1999 (the date of the Department’s order in D.T.E. 98-32-B), do so with an assignment of capacity. Grandfather customers, or customers who were transportation customers prior to February 1, 1999, do not have an assignment of capacity, but are the largest customers on the system with competitive options available to

them. Under the terms and conditions, the Company is obligated to serve them only if they meet the criteria that any other new customer would face (see Section 15.6). Since 1999, the Company has accepted grandfathered customers back to default service where the customer has elected to return to utility service and has been able to meet the criteria of a “new” customer. However, these customers have options in the competitive marketplace should the Company be unable to accommodate their load on Default Service.

This framework should not be modified because, in combination, these provisions were designed to: (1) provide longstanding transportation customers with the continued economic benefit of taking transportation service without a capacity assignment; (2) provide an incentive for marketers to serve these customers in the event the customer chose, or needed to, change its service provider; and (3) provide a framework for those customers to return to utility service as a backstop if needed without jeopardizing the costs and reliability for existing sales customers. This construct has worked well over the past five years despite fluctuations in the number and make-up of marketing entities serving retail customers in Massachusetts. Accordingly, there is no need for the Department to make changes to this construct or to hold hearings on this matter as requested by the Attorney General.

**II. Changes to the Existing Capacity Assignment Methodology and Model Terms and Conditions Should Be Approached Cautiously and May Be Unnecessary.**

In the initial comments, both Energy East Solutions and Amerada Hess suggested changes to (1) the capacity-assignment methodology; and (2) various provisions of the existing terms and conditions governing the capacity-assignment process and other

aspects of the LDC/supplier relationship. As stated above, the Company is willing to work with the Department and other participants in this proceeding to identify and evaluate options for reducing administrative burdens and streamlining the capacity-assignment process. However, many of the changes proposed by Energy East Solutions and Amerada Hess can be accomplished without any changes to the Model Terms and Conditions. In other cases, the reasons cited by Energy East Solutions and Amerada Hess for proposed changes are overstated, and therefore, do not necessarily provide a basis for broad changes to the capacity-assignment program. The Company will cover each of these suggested changes in turn:

A. Conversion from Slice-of-the-System to a Path Approach

Energy East Solutions, Amerada Hess and Select Energy claim that the slice-of-the-system capacity-assignment methodology adopted by the Department in D.T.E. 98-32-B should be modified to eliminate the assignment of “capacity fragments” (Energy East Solutions at 3-8; Amerada Hess at 4-7). Energy East Solutions suggests that the Department consider implementation of the path approach adopted in Rhode Island, while Amerada Hess suggests that the Department should adopt the New York path approach where only one long-haul, one short-haul and one storage contract are assigned to each marketer (Energy East Solutions at 7-8; Amerada Hess at 6). There are several factors that should be considered by the Department on this issue.

First, since the issuance of D.T.E. 98-32-B in 1999, the Company (and other LDCs) have made significant strides to streamline its resource portfolio and to terminate the relatively small capacity contracts that could potentially result in capacity “fragments” being assigned to marketers. In addition, under the Model Terms and Conditions,

customer loads are aggregated and marketers are assigned capacity in blocks per the requirements of the aggregation pool. As a result, marketers on the NSTAR Gas system are not assigned “fragments” of capacity and the extreme cases cited by Energy East Solutions and Amerada Hess are not a reality. A review of recent assignments to markets shows only one assignment even approaching the size mentioned by Amerada Hess and Energy East Solutions, which was approximately 14 Dth in a particular situation.

Second, it bears noting that the path approaches adopted in Rhode Island and New York are tailored to meet the operational and regulatory requirements of those jurisdictions. For example, in Rhode Island only large and medium commercial and industrial customers are eligible to be transportation customers. The implementation of a path approach would be more complicated on a system where all customers are eligible to take transportation service. In addition, in both jurisdictions, capacity path prices are established based on a snap-shot in time calculation of fixed demand charges. The prices assigned to the capacity paths do not take into account the commodity and variable transportation price differentials that occur during the year and become part of the gas costs incurred to serve sales customers. These and other issues would need to be considered if the Department were to contemplate implementing a path approach in Massachusetts.

As stated in the Company’s initial comments, the Company’s experience is that the existing mandatory capacity assignment system is working well in that it provides customers with access to the competitive market, provides all marketers with equal access to needed capacity resources, and has ensured the reliability of gas service under even the harshest weather and market conditions. However, the Company is willing to work with

the Department and other participants in this proceeding to identify and evaluate ways to streamline the capacity-assignment process.

B. Monthly Releases and Recalls

Amerada Hess claims that the monthly recall and release of capacity is administratively burdensome and detracts from the value of the capacity (Amerada Hess at 7). Amerada Hess suggests that the LDCs should calculate and release a base load level of capacity to each marketer for an annual period, with monthly recalls and releases reserved for incremental changes in the marketers' load requirements (id. at 7).

As stated above, the Company is not necessarily opposed to the implementation of changes to the existing process that would reduce administrative burdens. However, the recommendation of Amerada Hess regarding the move away from monthly releases and recalls could be accommodated by the Model Terms and Conditions. Specifically, Section 13.5 et seq. states that capacity may be released for a period commencing with the Assignment Date and running through the expiration date of the contract being assigned. NSTAR Gas has not recently released capacity for periods of longer than one month because of the credit implications of this practice. If capacity is assigned to a marketer for a long-term period, the chances of financial complications increase considerably for sales customers in the event of supplier non-payment, insolvency or bankruptcy. In that event, the Company (and its firm sales customers) become responsible for the demand charges, but may not have access to the capacity to extract value from it, which imposes costs on sales customers. As a result, the Company has adopted the practice of recalling and releasing capacity each month to minimize the financial risk for customers. However, the terms and conditions provide for longer release terms and the Company is

willing to work with the Department and other participants in this proceeding on this issue.

C. Imbalance Penalties

Amerada Hess proposes that the Department modify the Model Terms and Conditions to eliminate the OFO penalty of five times the Gas Daily index price for imbalances exceeding the two percent tolerance (Amerada Hess at 8-9). Amerada Hess claims that, because prices on the Gas Daily index have ranged as high as \$75 per Dth, penalties based on five times the daily index are overly punitive (*id.*). The Company does not agree that there is a basis to change this provision. The whole intent of the provision is to ensure that, *in those periods where the system is under stress*, gas marketers do not under or over-deliver gas supplies and jeopardize the stability of the system. It is important that the imbalance penalty serve as a deterrent to behavior that may create challenges for the entire system, rather than constituting an “economic” signal to marketers. The Company believes that the existence of this provision was a factor in the Company’s ability to maintain system integrity during January 2004, and therefore, does not support any changes to this provision.

D. Standardization of Holiday Period Nomination Deadlines

Energy East Solutions recommends that the Department should modify the Model Terms and Conditions to “synchronize” the nomination schedules over holiday periods with standard industry practice (Energy East Solutions at 11). This change does not require any action by the Department. Under Section 11.3.3 and 12.3.4, the Company must allow nominations on weekends, holidays and non-business hours on a “best-efforts basis.” The Company is willing to work with the Department and other participants in

the proceeding to attempt to develop a standardized approach that would constitute the “best-efforts basis” under the terms and conditions.

E. Access to and Modification of Non-Daily Metered Consumption Algorithms

In the initial comments, Energy East Solutions recommends that the Department amend the Model Terms and Conditions to require the LDCs to provide non-daily metered consumption algorithms by meter for each customer to suppliers (Energy East Solutions at 12). Energy East Solutions further suggests that the Department review these consumption algorithms to remove any “temperature-sensitive load” predicted by the algorithm where it does not in fact occur (*id.* at 13).

Again, no action is needed by the Department to implement these suggestions. Suppliers are provided access to consumption algorithms pursuant to Section 12.3.2 of the Model Terms and Conditions. The Company provides the consumption algorithm to suppliers for each non-daily metered customer through EDI transactions. In addition, the Company reviews the algorithms on a semi-annual basis and, since 2001, has not detected a variance greater than 1 percent in the semi-annual cashout. The Company’s most recent cashout was within 0.4 percent of the amount predicted by the consumption algorithms.

### **III. Conclusion**

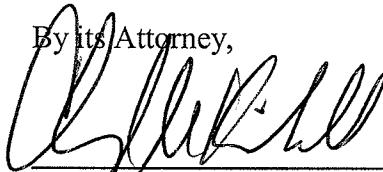
Based on the initial comments, there is no information tending to support the conclusion that the upstream capacity market is “workably competitive.” Without a finding that the market is workably competitive, the planning and procurement of capacity resources cannot be turned over to the market without jeopardizing the reliability of gas service to customers. The decontracting process proposed by Amerada Hess that

would progressively eliminate the LDCs' ability to hold sufficient capacity resources to meet the needs of firm customers should not be adopted by the Department. In addition, the Department should be cautious in considering any changes in the mandatory "slice-of-the-system" capacity assignment program or the LDCs' transportation terms and conditions. However, the Company would participate in a limited-scope effort to discuss potential modifications to reduce administrative burdens while meeting the Department's twin policy objectives of (1) ensuring reliability; and (2) guarding against cost-shifting between transportation and sales customers. Lastly, it is not necessary to change the Model Terms and Conditions to implement the remaining changes recommended by Amerada Hess and Energy East Solutions in the initial comments.

Respectfully submitted,

**NSTAR GAS COMPANY**

By its Attorney,

A handwritten signature in black ink, appearing to read "Cheryl M. Kimball", is written over a horizontal line.

Cheryl M. Kimball, Esq.  
Keegan, Werlin & Pabian, LLP  
265 Franklin Street  
Boston, MA 02110  
(617) 951-1400

Dated: March 29, 2004